

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217-1	CRM-M-38853-2023 Date of Decision: 05.09.2023
Surender Singh	...Petitioner
Versus	
State of Haryana	...Respondent
217-2	CRM-M-39049-2023
Dr. Jaiveer Yadav and others	...Petitioners
Versus	
State of Haryana	...Respondent
217-3	CRM-M-39054-2023
Jagdish Singh	...Petitioner
Versus	
State of Haryana	...Respondent
217-4	CRM-M-39062-2023
Geeta Devi	...Petitioner
Versus	
State of Haryana	...Respondent
217-5	CRM-M-40356-2023
Neeraj Kumar	...Petitioner
Versus	
State of Haryana	...Respondent
217-6	CRM-M-40747-2023
Kuldhir Singh	...Petitioner
Versus	
State of Haryana	...Respondent

217-7 CRM-M-39441-2023

Meena Kumari ...Petitioner

Versus

State of Haryana ...Respondent

217-8 CRM-M-40291-2023

Ashok Kumar and another ...Petitioners

Versus

State of Haryana ...Respondent

218 CRM-M-39157-2023

Pawan Kumar ...Petitioner

Versus

State of Haryana ...Respondent

220 CRM-M-41414-2023

Rakesh Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Inder Pal Goyat, Advocate,
for the petitioner(s) in CRM-M-38853-2023, CRM-M-40747-2023,
CRM-M-39441-2023 and CRM-M-39157-2023.

Mr. P.K. Chugh, Advocate,
for the petitioners in CRM-M-39049-2023 and CRM-M-40291-2023.

Mr. Narender Kaajla, Advocate,
for the petitioner in CRM-M-39054-2023.

Mrs. Baljit Mann, Senior Advocate with
Ms. Bisman Mann and Mr. Rishav Soni, Advocates,
for the petitioner in CRM-M-39062-2023.

Mr. Kamaldeep Sehra, Advocate,
for the petitioner in CRM-M-40356-2023.

Mr. S.N. Pillania, Advocate,
for the petitioner in CRM-M-41414-2023.

Mr. Rajat Gautam, Addl. Advocate General, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
20	18.10.2005	State Vigilance Bureau, Hisar	13 of Prevention of Corruption Act, 1988 and Sections 420, 467, 468, 471, 120-B IPC

1. The common questions of law and fact involved in these petitions, therefore, all the petitions are taken together, for brevity, facts are being taken from CRM-M-38853-2023.
2. The petitioner(s) apprehending arrest in the FIR captioned above had come up before this Court under Section 438 CrPC seeking anticipatory bail.
3. The arrest of the petitioner(s) was stayed by the co-ordinate Bench of this Court, which is continuing till date.
4. Counsel for the petitioners submits that interim be made absolute and they would have no objection, if the trial is expedited and they undertake not to delay the trial under any pretext whatsoever. They further submit that they would have no objection in case, this Court might impose any stringent conditions to the petitioner(s), whatsoever.
5. The state's counsel opposes the bail and states that considering the allegations, the petitioner's custodial interrogation is necessary.

REASONING:

6. The prosecution's case is that the complainant and others pointed out irregularities and malpractices committed by the members of Haryana Public Service Commission in the selection process of Haryana Civil Services (Executive) 2004. The allegations are that the selection process of said examination was not fair or based on merit, rather the selection was influenced by political and extraneous considerations. During the investigation some sketchy things were found in the answer sheets of the candidates such as over writing, change in hand writing, change in marks, which effect the selection zone.
7. The petitioner(s) was granted interim protection, and during the interregnum,

there is no allegation that he had intimidated witnesses or that he had hampered the investigation. Given the above, there would be no justification to discontinue the interim protection, and the same is made absolute subject to the petitioner(s) complying with the terms of the bail order and the following additional conditions.

8. *The petitioner(s) is directed to join the investigation as and when called by the Investigator.* The petitioner(s) shall be in deemed custody for Section 27 of the Indian Evidence Act. The petitioner(s) shall join the investigation as and when called by the Investigating Officer or any Superior Officer; and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, it will be open for the prosecution to seek cancellation of the bail. Whenever the investigation occurs within the police premises, the petitioner(s) shall not be called before 8 AM, let off before 6 PM, and shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

9. The petitioner(s) shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts and the circumstances of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

10. Petitioner(s) to comply with their undertaking made in the bail petition, made before this court through counsel as reflected at the beginning of this order or in earlier orders. If the petitioner(s) fails to comply with any of such undertakings, then on this ground alone, the bail might be canceled, and the victim/complainant may file any such application for the cancellation of bail, and the State shall file the said application.

11. During the trial's pendency, if the petitioner repeats or commits any offence where the sentence prescribed is more than seven years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.

12. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior. **It is clarified that in case the petitioner(s) does not mend his ways and repeats the offence or indulge in criminal**

behaviour, then in all future matters, the concerned courts shall keep it as a factor that this court had afforded a final opportunity to the petitioner(s) to reform and live a normal life but did not improve.

13. The conditions mentioned above imposed by this Court are to endeavour that the accused does not repeat the offence and to provide an opportunity to the victim to consider legal remedies for recovery of the amount. In Mohammed Zubair v. State of NCT of Delhi, **2022:INSC:735 [Para 28]**, Writ Petition (Criminal) No 279 of 2022, Para 29, decided on July 20, 2022, A Three-Judge bench of Hon'ble Supreme Court holds that "The bail conditions imposed by the Court must not only have a nexus to the purpose that they seek to serve but must also be proportional to the purpose of imposing them. The courts, while imposing bail conditions, must balance the liberty of the accused and the necessity of a fair trial. While doing so, conditions that would result in the deprivation of rights and liberties must be eschewed."

14. Any Advocate for the petitioner(s) and the Officer in whose presence the petitioner(s) puts signatures on personal bonds shall explain all conditions of this bail order in any language that the petitioner(s) understands.

15. If the petitioner(s) finds the bond amount beyond social and financial reach, it may be brought to the notice of this Court for appropriate reduction. Further, if the petitioner(s) finds bail condition(s) as violating fundamental, human, or other rights, or causing difficulty due to any situation, then for modification of such term(s), the petitioner(s) may file a reasoned application before this Court, and after taking cognizance, even to the Court taking cognizance or the trial Court, as the case may be, and such Court shall also be competent to modify or delete any condition.

16. This order does not, in any manner, limit or restrict the rights of the Police or the investigating agency from further investigation as per law.

17. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offence in this FIR, and if the new section prescribes maximum sentence which is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above, then, in that case, the Investigator/Officer-In-Charge shall give the petitioner(s) notice of a minimum of seven days providing an opportunity to avail the remedies available in law.

18. The trial is expedited and the petitioner(s) is directed to comply with the undertaking given through their counsel. It is clarified that in case any of the petitioner(s) tries to delay the matter, then on this ground alone, it shall be permissible for the State to file an application for cancellation of bail before the trial Court itself.

19. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

20. *There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Petitioner(s) can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petitions allowed and interim orders are made absolute. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

05.09.2023
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.